

COMMONWEALTH OF MASSACHUSETTS – PLYMOUTH DISTRICT
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PRESS RELEASE

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District Court ruling affirmed- Kirk v. Commonwealth

BROCKTON, MA-Plymouth County District Attorney Timothy J. Cruz announced today that the Supreme Judicial Court has affirmed the District Court's ruling that the public may attend the hearing on the question of whether Helen Kirk should be recommitted to the Taunton State Hospital under G.L. c. 123, § 16(c). Kirk v. Commonwealth, Docket No. S.J.C. 10702 (March 7, 2011) (Cowin, J.).

In September, 2007, Helen Kirk was found to be not guilty by reason of a mental illness or defect, (more commonly referred to as the insanity defense) after having been tried for the murder of her four year old son. In November, 2009, the Taunton State Hospital notified the District Attorney's Office of its intent to discharge her. The District Attorney opposed the discharge. Ms. Kirk asked to close the recommitment hearing. The District Attorney opposed the motion for closure, stating that such hearings are presumptively open to the public. The District Court Judge, Cunningham, J., agreed with the District Attorney's Office and ordered that the hearing be held publicly. Ms. Kirk was granted leave to appeal. Today, the Supreme Judicial Court affirmed the order of the District Court Judge.

The Supreme Judicial Court rejected Ms. Kirk's argument, and concluded that recommitment proceedings pursuant to G.L. c. 123, § 16(c), are presumptively open to the public, and as the plaintiff has not met her burden of showing an overriding interest that is likely to be prejudiced absent closure. The Supreme Judicial Court held that the District Court Judge made no error.

The basis for the Supreme Judicial Court's decision is the long-standing presumption in Massachusetts common law that, as a general matter, the public has a right to attend civil trials. "We conclude that both the legal evolution of civil commitment proceedings and the likely beneficial effects of public access to such proceedings support a conclusion that civil recommitment hearings held pursuant to G.L. c. 123, §

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16 (c), are presumptively open to the public.” In order for Ms. Kirk or other similarly situated individuals to obtain closure or partial closure of recommitment hearings, there must be evidence that such closure is necessary. The Supreme Judicial Court requires the same balancing test used in criminal cases under Waller v. Georgia, 467 U.S. 39, 48 (1984). Ms. Kirk has failed to meet her burden to show that such closure is necessary.

District Attorney Timothy J. Cruz stated that he is pleased with the decision because it guarantees the right to public attendance at recommitment proceedings in the same manner as in criminal trials. “The strength of our justice system is that our courtrooms are open to public scrutiny. That is an important protection for both the accused and the community. The commitment of persons who have been found incompetent to stand trial or not guilty by reason of insanity is a matter of great public concern and we are pleased that the SJC has ruled that those proceedings, whether they are at the hospitals or at the courthouse, are open to the public”.

There is a hearing scheduled for Tuesday, March 8, 2011 for status at the Taunton State Hospital.

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